

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

PARUS HOLDINGS INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

C.A. No.: 6:19-cv-00432-ADA
(Lead Case)

JURY TRIAL DEMANDED

PARUS HOLDINGS INC.,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

C.A. No.: 6:19-cv-00433-ADA
(Consolidated Case)

JURY TRIAL DEMANDED

**JOINT MOTION FOR ENTRY OF COVID-19 ADDENDUM TO
PROTECTIVE ORDER**

Plaintiff Parus Holdings Inc. (“Parus”) and Defendant Google LLC (“Google”) hereby jointly move for entry of the accompanying COVID-19 Addendum, attached as Exhibit A. In light of the COVID-19 pandemic, and the resulting Federal, State, and local travel restrictions and shelter-in-place orders, the COVID-19 Addendum addresses the discovery needs of this case during the ongoing public health emergency. The parties, therefore, respectfully request that the attached COVID-19 Addendum be adopted by order of the Court.

Dated: October 29, 2020

Respectfully submitted,

/s/ Andrew H. DeVoogd

T. John Ward, Jr.

Texas State Bar No. 00794818

E-mail: jw@wsfirm.com

Charles Everingham IV

Texas State Bar No. 00787447

E-mail: ce@wsfirm.com

Andrea L. Fair

Texas State Bar No. 24078488

E-mail: andrea@wsfirm.com

Claire Abernathy Henry

Texas State Bar No. 24053063

E-mail: claire@wsfirm.com

WARD, SMITH & HILL, PLLC

PO Box 1231

Longview, Texas 75606-1231

Tel: 903-757-6400

Fax: 903-757-2323

Michael T. Renaud

Massachusetts BBO No. 629783

E-mail: MTRenaud@mintz.com

Michael J. McNamara

Massachusetts BBO No. 665885

E-mail: MMcNamara@mintz.com

Andrew H. DeVoogd

Massachusetts BBO No. 670203

E-mail: AHDeVoogd@mintz.com

Courtney P. Herndon

Massachusetts BBO No. 693418

E-Mail: CHerndon@mintz.com

Sean M. Casey

Massachusetts BBO No. 705197

E-Mail: SMCasey@mintz.com

Williams S. Dixon

Massachusetts BBO No. 705286

E-Mail: WSDixon@mintz.com

MINTZ LEVIN COHN FERRIS

GLOVSKY AND POPEO PC

One Financial Center

Boston, MA 02111

Tel: (617) 542-6000

Fax: (617) 542-2241

www.mintz.com

Attorneys for Plaintiff Parus Holdings Inc.

/s/ Luann L. Simmons

Darin W. Snyder (*Pro Hac Vice*)

dsnyder@omm.com

Luann L. Simmons (*Pro Hac Vice*)

lsimmons@omm.com

David S. Almeling (*Pro Hac Vice*)

dalmeling@omm.com

Mark Liang (*Pro Hac Vice*)

mliang@omm.com

Bill Trac (*Pro Hac Vice*)

btrac@omm.com

Daniel Silverman (*Pro Hac Vice*)

dsilverman@omm.com

O'MELVENY & MYERS LLP

Two Embarcadero Center

28th Floor

San Francisco, CA 94111-3823

Telephone: 415-984-8700

Facsimile: 415-984-8701

Steve McConnico

Texas State Bar No. 13450300

smconnico@scottdoug.com

Paige Arnette Amstutz

Texas State Bar No. 00796136

pamstutz@scottdoug.com

SCOTT, DOUGLASS & MCCONNICO, LLP

303 Colorado Street, Suite 2400

Austin, TX 78701

Telephone: (512) 495-6300

Facsimile: (512) 495-6399

Attorneys for Defendant Google LLC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on October 29, 2020 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

/s/ Andrew H. DeVogd
Andrew H. DeVogd

Exhibit A

COVID-19 ADDENDUM TO PROTECTIVE ORDER

WHEREAS, Plaintiff Parus Holdings Inc. (“Plaintiff”) and Defendant Google LLC (“Google”), hereafter referred to as “the Parties,” have worked together to reconcile the needs of this case with the exigencies of the ongoing public health emergency;

WHEREAS, the Parties submitted a Draft Protective Order to the Court on March 12, 2020;

WHEREAS, solely in this period of national—and international—public health emergency, the Parties have developed, as a special accommodation, a temporary alternative to the inspection protocols set forth in the Draft Protective Order;

WHEREAS, the Parties acknowledge the exceptional exigencies presented by the international health emergency and will not later argue that the opposing party’s accommodations during this emergency constitute a proper approach in any other circumstances, and will not be citable as evidence of appropriate source code review procedures after the pandemic by any entity or individual;

NOW THEREFORE, it is hereby stipulated among the Parties that:

1. This COVID-19 Addendum to the Draft Protective Order shall be effective immediately upon entry and shall continue in effect until the end of expert discovery or April 9, 2021 (whichever is earlier), unless extended by agreement of the Parties or further order of the Court. Except as modified herein, all other provisions of the March 12, 2020 Draft Protective Order shall remain in full force and effect. For any disputed provisions of the March 12, 2020 Draft Protective Order, the parties shall abide by the provisions proposed by Google in the March 12, 2020 Draft Protective Order until such time as the Court issues a Final Protective Order.

2. Defined terms in this Addendum have the meaning established in the March 12,

2020 Draft Protective Order. In addition, “Authorized Reviewer,” in the context of this Addendum, shall mean any person who is authorized under the March 12, 2020 Draft Protective Order to access materials designated as “CONFIDENTIAL – OUTSIDE ATTORNEYS’ EYES ONLY – SOURCE CODE.”

3. Google will make its source code inspection computers available at Quinn Emmanuel Urquhart & Sullivan’s offices in Boston, Massachusetts and O’Melveny & Myers’s offices in New York, New York.

4. Parus will make its source code inspection computer available at Mintz’s offices in San Francisco, California.

5. Prior to the first inspection at each location of a source code machine, the Receiving Party shall provide fourteen (14) days’ notice of the location at which the Receiving Party wishes to inspect source code. Prior to any additional inspections at that location, the Receiving Party shall provide three (3) business days’ notice that the Receiving Party intends to inspect source code so that the Producing Party can make security arrangements and ensure that the appropriate individuals are available to facilitate review.

6. To the extent the Producing Party agrees to supplement its source code, the Producing Party shall make good faith efforts to prevent access to a source code machine located at a law firm office from being denied for more than three (3) consecutive business days after the Producing Party begins updating the source code machine with supplemental code.

7. Each party’s expert or Authorized Reviewer shall certify in advance of inspection that they (a) have not tested positive for COVID-19, (b) have not experienced any symptoms indicative of possible COVID-19 infection within the prior 14 days, and (c) have not, to their knowledge, interacted with someone in the past 14 days who was infected with COVID-19.

8. A Producing Party may use cameras or a person to monitor the secure review room being used for the review of that Producing Party's source code to ensure there is no unauthorized recording, copying, or transmission of source code. No Party will be permitted to position cameras in a manner that captures the content displayed on any source code computer.

9. To access any materials designated as "CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY – SOURCE CODE," each Party's expert or Authorized Reviewer shall review this Addendum along with the March 12, 2020 Draft Protective Order. By signing Exhibit 1 to this Addendum, each expert and Authorized Reviewer agrees to be bound to the conditions of this Addendum.

10. The use of the above temporary source code review procedures during the COVID-19 pandemic and associated government orders will not be citable as evidence of appropriate source code review procedures after the COVID-19 pandemic and associated government stay orders. Additionally, the use of the above temporary source code review procedures during the COVID-19 pandemic and associated government orders will not be citable as evidence of the appropriate or convenient venue for this or any other matter.

SO ORDERED.

EXHIBIT 1

I, _____, acknowledge and declare that I have received a copy of the COVID-19 Addendum to the Protective Order (“Addendum”) in *Parus Holdings Inc. v. Google Inc.*, United States District Court for the Western District of Texas, Waco Division, Civil Action No. 6:19-cv-433-ADA. Having read and understood the terms of the Addendum, I agree to be bound by the terms of the Addendum and consent to the jurisdiction of said Court for the purpose of any proceeding to enforce the terms of the Addendum.

Name of individual: _____

Present occupation/job description: _____

Name of Company or Firm: _____

Address: _____

Dated: _____

[Signature]